

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6127**

**BILL NUMBER: SB 78**

**DATE PREPARED:** Oct 27, 2001

**BILL AMENDED:**

**SUBJECT:** Dog Attacks.

**FISCAL ANALYST:** Karen Firestone

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**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill specifies that a dog owner may be held civilly liable if the owner's dog attacks a person who is carrying out a duty imposed by state law, federal law, postal regulations, a local ordinance, or under the authority of a public utility. The bill provides that a dog owner who recklessly, knowingly, or intentionally fails to restrain the owner's dog commits a class C misdemeanor if the dog attacks a person not on the owner's property and establishes enhanced penalties for repeat offenses or if the victim suffers serious injury or death. The bill also provides that a dog owner who fails to post a conspicuous sign warning of the dog or knowingly or intentionally fails to restrain the owner's dog during the daylight hours commits a class B misdemeanor if the dog attacks a person on the owner's property and the person is carrying out a duty imposed by state law, federal law, postal regulations, a local ordinance, or under the authority of a public utility. It requires a person who has a duty to enter the dog owner's property but who cannot enter the owner's property because of the dog to obtain a court order or notify the property owner by certified mail of the person's inability to enter the dog owner's property. It also establishes enhanced penalties for repeat offenses or if the victim suffers serious injury or death.

**Effective Date:** July 1, 2002.

**Explanation of State Expenditures:** Under current law, if a dog bites a person who is discharging a duty imposed by state or federal law or by postal regulation, the dog owner may be held liable for damages. Under the bill, this protection is extended to persons discharging a duty imposed by a county or municipal ordinance or under the authority of a public utility, except if the dog is on the property of the dog owner and there is adequate warning of the dog's presence or if the person bitten is emergency personnel or a police officer.

In addition to these amendments to the current law, the bill would create a Class B misdemeanor if there is a failure to post a warning or restrain the dog, and the dog caused serious bodily injury. The penalty would be a Class A misdemeanor if the dog owner had a previous conviction, and a Class C felony if the bite or attack resulted in death. Also, a person who has a duty to enter a property, but is unable to because of a dog,

must send certified return receipt letter to the owner or obtain a court order authorizing the person to enter the dog owner's property.

If the dog bite or attack results in death, offenders could be convicted of a Class C felony. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years.

**Explanation of State Revenues:** If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000, the maximum fine for a Class A misdemeanor is \$5,000 and there is a \$10,000 maximum fine for a Class C felony. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** A Class B misdemeanor is punishable by up to 180 days in jail, and a Class A misdemeanor is punishable by up to one year in jail. If more defendants are detained in county jails prior to their court hearings for a Class C felony, local expenditures for jail operations may increase. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund, and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.